



DEPARTMENT OF COMMERCE

International Trade Administration

[C-580-837]

Certain Cut-to-Length Carbon-Quality Steel Plate from Korea: Notice of Court Decision Not in Harmony with the Results of Countervailing Duty Administrative Review; Notice of Amended Final Results

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On March 18, 2022, the U.S. Court of International Trade (CIT) issued its final judgment in *Hyundai Steel Company v. United States*, Court no. 21-00012, sustaining the Department of Commerce (Commerce)'s final remand results pertaining to the administrative review of the countervailing duty (CVD) order on certain cut-to-length carbon-quality steel plate (CTL plate) from Korea covering the period January 1, 2018, through December 31, 2018.

Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results with respect to the countervailable subsidy rate assigned to Hyundai Steel Company (Hyundai Steel).

DATES: Applicable March 28, 2022.

FOR FURTHER INFORMATION CONTACT: John Conniff, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone0: (202) 482-1009.

SUPPLEMENTARY INFORMATION:

Background

On December 28, 2020, Commerce published its *Final Results* in the 2018 CVD administrative review of CTL plate from Korea. Commerce determined that a countervailable *ad valorem* subsidy rate of 0.50 existed for Hyundai Steel during the period of review.¹

Hyundai Steel appealed Commerce's *Final Results*. On November 9, 2021, the CIT granted Commerce's request for a voluntary remand of its determination of the countervailability of the reduction for sewerage fees program in the *Final Results*.²

In its final remand redetermination, issued on February 4, 2022, Commerce found that the reduction for sewerage fees program was not countervailable.³ On March 18, 2022, the CIT sustained Commerce's final redetermination.⁴

Timken Notice

In its decision in *Timken*,⁵ as clarified by *Diamond Sawblades*,⁶ the U.S. Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not "in harmony" with a Commerce determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's March 18, 2022, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Results

¹ See *Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; Calendar Year 2018*, 85 FR 84296 (December 28, 2020) (*Final Results*).

² See *Order Granting Motion to Remand Case, Hyundai Steel v. United States*, Court No. 21-00012 (November 9, 2021) (*Remand Order*).

³ See *Final Results of Redetermination Pursuant to Court Remand*, Court No. 21-00012, dated February 4, 2022.

⁴ See *Judgment Sustaining Remand Redetermination*, Court No. 21-00012, dated March 18, 2022.

⁵ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

⁶ See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to Hyundai Steel as follows:

Producer or Exporter	Weighted-Average Dumping Margin (Percent)
Hyundai Steel	0.49*

* Indicates a *de minimis* subsidy rate.

Cash Deposit Requirements

Because Hyundai Steel has a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rate.

Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that were produced and/or exported by Hyundai Steel, and were entered, or withdrawn from warehouse, for consumption during the period January 1, 2018, through December 31, 2018. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess countervailing duties on unliquidated entries of subject merchandise produced and/or exported by Hyundai Steel in accordance with 19 CFR 351.212(b). We will instruct CBP to assess countervailing duties on all appropriate entries covered by this review when the *ad valorem* rate is not zero or *de minimis*. Where an *ad valorem* subsidy rate is zero or *de minimis*,⁷ we will instruct CBP to liquidate the appropriate entries without regard to countervailing duties.

⁷ See 19 CFR 351.106(c)(2).

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: March 22, 2022.

Lisa W. Wang,
Assistant Secretary
for Enforcement and Compliance.

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